

**UNITED STATES OF AMERICA  
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

\_\_\_\_\_  
The Secretary, United States  
Department of Housing and Urban  
Development, on behalf of [REDACTED]

ALJ No. \_\_\_\_\_

FHEO No. 09-11-0981-8

Charging Party,

v.

Sue Newell, SK Properties, LLC,  
Sundance West – BDS, LLC, and  
Sundance West – RAF, LLC

Respondents  
\_\_\_\_\_

**CHARGE OF DISCRIMINATION**

**I. JURISDICTION**

On July 27, 2011, Complainant [REDACTED] (“Complainant”) filed a complaint with the United States Department of Housing and Urban Development (“HUD”), alleging that Respondents Sue Newell and Sundance West – RAF, LLC discriminated against her on the basis of disability, in violation of the Fair Housing Act (“the Act”), 42 U.S.C. §§ 3601-19. On September 11, 2012, the complaint was amended to include SK Properties, LLC and Sundance West – BDS, LLC as respondents.

The Act authorizes the Secretary of HUD to issue a Charge of Discrimination on behalf of an aggrieved person following an investigation and a determination that reasonable cause exists to believe that a discriminatory housing practice has occurred. 42 U.S.C. §§ 3610(g)(1) and (2). The Secretary has delegated that authority to the General Counsel. 24 C.F.R. §§ 103.400 and 103.405. The General Counsel has re-delegated that authority to the Regional Counsel. 76 Fed. Reg. 42463, 42465 (July 18, 2011).

The Regional Director for Region IX, on behalf of the Assistant Secretary for Fair Housing and Equal Opportunity, has determined that reasonable cause exists to believe that a discriminatory housing practice has occurred in this case and that HUD's investigation of the subject complaint supports the issuance of this Charge of Discrimination, which he has authorized and directed the Regional Counsel to issue pursuant to 24 C.F.R. § 103.405.

## **II. SUMMARY OF FINDINGS IN SUPPORT OF THIS CHARGE**

Based on HUD's investigation of the allegations contained in the aforementioned complaint and the Determination of Reasonable Cause, Respondents are hereby charged with violating the Act as follows:

### **A. Legal Authority**

1. It is unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a disability<sup>1</sup> of (A) that buyer or renter; (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or (C) any person associated with that buyer or renter. 42 U.S.C. § 3604(f)(1); 24 C.F.R. § 100.202(a).
2. It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a disability of (A) that person; (B) a person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or (C) any person associated with that person. 42 U.S.C. § 3604(f)(2); 24 C.F.R. § 100.202(b).
3. For purposes of 42 U.S.C. § 3604(f), discrimination includes a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204(a).

### **B. Parties and Subject Property**

4. Complainant, who suffers from depression, is an individual with a disability, as defined by the Act. 42 U.S.C. § 3602(h).
5. Complainant is an aggrieved person, as defined by the Act. 42 U.S.C. § 3602(i).

---

<sup>1</sup> The Act uses the term "handicap" instead of the term "disability." However, both terms have the same legal meaning. This Charge uses the term "disability."

6. At all times relevant to this Charge, Complainant rented a unit in a 350-unit apartment complex located at 3285 Clover Way, Reno, Nevada ("Subject Property"). Complainant's unit at the Subject Property is a dwelling, as defined by the Act. 42 U.S.C. § 3602(b).
7. Respondents Sundance West – RAF, LLC and Sundance West – BDS, LLC (collectively, "Respondent Owners") are limited liability companies registered with the state of Nevada. Respondent Owners own the Subject Property.
8. Respondent SK Properties, LLC ("Respondent SK Properties") is a limited liability company registered with the state of Nevada. Respondent SK Properties is employed by Respondent Owners to manage the Subject Property and maintains onsite personnel there.
9. At all times relevant to this Charge, Respondent Sue Newell ("Respondent Newell") was employed by Respondent SK Properties to manage the Subject Property. Respondent Newell's duties included, but were not limited to, addressing individuals' concerns regarding the terms and conditions of their tenancy at the Subject Property.

### **C. Factual Allegations**

10. On or around April 7, 2009, Complainant submitted an application to rent a unit at the Subject Property.
11. Around the time Complainant submitted her application, she also provided Respondent SK Properties a note from her doctor which stated that Complainant "would benefit medically from having a companion dog. I appreciate any efforts to allow that to happen."
12. On or around June 1, 2009, Complainant moved with her dog into a unit at the Subject Property. Complainant's monthly rent for her unit was \$625. Complainant paid \$192 of this amount, and the remaining \$433 was paid each month via tenant-based Section 8 voucher assistance.
13. On or around June 1, 2010, Complainant entered into a lease agreement with Respondents to rent the same unit at the Subject Property. The term of the lease was to begin on June 1, 2010, and end on May 31, 2011. Complainant's monthly rent for her unit remained the same.
14. The lease contained a clause whereby Complainant could terminate her lease prior to the end of her lease term, provided that the following conditions were satisfied: (1) Complainant must give written thirty-days notice of her intention to terminate her lease, which would become effective beginning on the first day of the month following the date

of the notice; (2) the carpets must be professionally cleaned and a receipt provided; and (3) Complainant must forfeit an amount equal to one month's rent plus any concession received as liquidated damages as a result of the premature lease termination.

15. On or around October 27, 2010, Respondents served Complainant with a Notice of Termination for Violation of Lease or Rental Agreement ("the Notice"). In the section of the Notice indicating the reason for its issuance, Respondents cited their requirement that pets be kept on a leash and under the owners' control. The Notice provided that Complainant must vacate the Subject Property or correct the listed violations within five judicial days.
16. Immediately after receiving the Notice, Complainant informed Respondent Newell in person that she needed her dog because of her disability. Respondent Newell replied that Complainant must get rid of her dog within twenty-four hours or face eviction. Complainant pleaded with Respondent Newell, asking her what she could do to keep her dog and not be evicted, but Respondent Newell insisted that Complainant get rid of her dog in order to remain at the Subject Property.
17. Shortly thereafter, Complainant contacted her caregiver regarding Respondent Newell's demand that Complainant remove her dog from the premises or be evicted.
18. On or around the same day that Respondents issued the Notice, Complainant's caregiver visited the Subject Property to speak with Respondent Newell on Complainant's behalf. Respondent Newell stated to the caregiver that Complainant needed to remove the dog within twenty-four hours or she would be evicted. Complainant's caregiver told Respondent Newell that the removal of Complainant's dog would not be good for Complainant's mental and physical health, and that Complainant needed to be allowed to break her lease in order to move to another place where she could keep her dog.
19. Respondent Newell agreed to allow Complainant to break her lease if she removed her dog from the premises within twenty-four hours.
20. After her conversation with Respondent Newell, Complainant's caregiver took Complainant's dog to the caregiver's home.
21. On or around November 3, 2010, Complainant's caregiver again spoke in person with Respondent Newell regarding Complainant's need to terminate her lease early without penalty. This time, Respondent Newell stated that she would not allow Complainant to break her lease. When Complainant's caregiver reminded Respondent Newell that Complainant needed to be with her dog because of her disability, Respondent Newell stated that she did not care. Respondent Newell stated that Complainant would need to pay for the remainder of her lease term if she prematurely terminated her lease, despite

Respondent Newell's insistence that Complainant could no longer live with her dog at the Subject Property.

22. Although Complainant could no longer keep her dog at the Subject Property, she remained in her unit because she was afraid to lose her eligibility for Section 8 rental assistance and could not afford to pay the early termination penalty.
23. Complainant's health deteriorated significantly after her dog was removed from the Subject Property. She became extremely depressed and, as a result, experienced the following problems: her appetite diminished and she lost weight; she had trouble sleeping; she lost the motivation to attend medical appointments and take medications that were necessary to treat her various ailments; and she became unable to engage in social and other pursuits that she once enjoyed.
24. Subsequent to her dog's removal from the Subject Property, Complainant informed her caseworker from a local medical center that she was required to get rid of it and indicated her desire to move to another location where she could keep a support animal.
25. Concerned about Complainant's declining health, Complainant's caseworker from the local medical center visited the Subject Property on February 14, 2011, to meet with Respondent Newell on Complainant's behalf.
26. During their meeting on February 14, 2011, Complainant's caseworker indicated to Respondent Newell that Complainant was disabled and struggling with her medical issues. The caseworker therefore requested that Complainant be allowed to prematurely terminate her lease without penalty so she could move to an apartment where she could keep a support animal and more easily access resources that were important for her health.
27. During their meeting on February 14, 2011, Respondent Newell denied the caseworker's request and stated that Complainant could not break her lease without giving at least thirty days notice and paying for the remaining term of the lease.
28. On or around February 18, 2011, Complainant's doctor faxed to Respondents a letter that stated as follows:

My patient, [REDACTED] has a dog that functions as her companion. I feel this dog is very important to her well being and ability to function and stay healthy. In the literature, companion dogs have been shown to improve a person's health significantly and this is the reason I have supported [REDACTED] I note that she cannot keep her companion dog anymore in her apartment. Since I agree with [REDACTED] that she needs her dog for her medical health, I feel this is sufficient reason to be released from her lease so she can go find an apartment where her companion dog can accompany her.

29. After Respondent Newell informed Complainant's caseworker that Complainant would not be released from her lease, the caseworker contacted the Silver State Fair Housing Council ("SSFHC") to intervene on Complainant's behalf.
30. On or around February 22, 2011, the Executive Director of SSFHC, Kate Knister, submitted a letter to Respondent Newell stating that Complainant indicated to SSFHC that she previously requested that Respondents allow her to prematurely terminate her lease without penalty as a reasonable accommodation of her disability and Respondents denied her request. Ms. Knister requested on Complainant's behalf that Respondent Newell inform SSFHC by March 2, 2011, if she would provide the requested accommodation.
31. On February 25, 2011, Respondent Newell called Ms. Knister and again stated that she would not allow Complainant to break her lease.
32. On or around May 10, 2011, Complainant provided Respondents with a written thirty-day notice of her intent to move out of her unit at the Subject Property. She vacated her unit at the end of her lease term in June 2011.
33. As a result of Respondents' discriminatory conduct, Complainant suffered actual damages including, but not limited to, loss of housing, loss of her support dog, and emotional distress.

#### **D. Legal Allegations**

34. As described in paragraphs 10-33 above, Respondents violated 42 U.S.C. § 3604(f)(1) and (f)(3)(B) because they made Complainant's dwelling unavailable to her by refusing to allow her to live with her support animal at the Subject Property when such accommodation was necessary to afford her an equal opportunity to use and enjoy her dwelling. 42 U.S.C. § 3604(f)(1) and (f)(3)(B); 24 C.F.R. §§ 100.202(a) and 100.204(a).
35. As described in paragraphs 10-33 above, Respondents violated 42 U.S.C. § 3604(f)(2) and (f)(3)(B) because they discriminated in the terms, conditions, or privileges of Complainant's tenancy by refusing to allow her to live with her support animal at the Subject Property when such an accommodation was necessary to afford her an equal opportunity to use and enjoy her dwelling. 42 U.S.C. § 3604(f)(2) and (f)(3)(B); 24 C.F.R. §§ 100.202(b) and 100.204(a).
36. As described in paragraphs 10-33 above, Respondents violated 42 U.S.C. § 3604(f)(2) and (f)(3)(B) because they discriminated in the terms, conditions, or privileges of Complainant's tenancy by refusing to allow her to prematurely terminate her lease without penalty when such accommodation was necessary to afford her an equal


opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(2) and (f)(3)(B); 24 C.F.R. §§ 100.202(b) and 100.204(a).

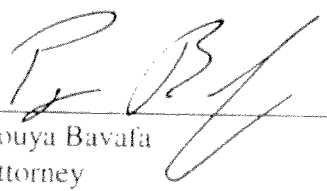
### III. CONCLUSION

WHEREFORE, the Secretary of the U.S. Department of Housing and Urban Development, through the Office of General Counsel, and pursuant to 42 U.S.C. § 3610(g)(2)(A) of the Act, hereby charges Respondents with engaging in discriminatory housing practices in violation of 42 U.S.C. § 3604(f)(1)-(2) and (f)(3)(B), and prays that an order be issued that:

1. Declares that the discriminatory housing practices of Respondents, as set forth above, violate the Fair Housing Act, 42 U.S.C. § 3604(f)(1)-(2) and (f)(3)(B);
2. Enjoins Respondents, their agents, employees, and successors, and all other persons in active concert or participation with them from discriminating because of disability against any person in any aspect of the sale or rental of a dwelling;
3. Requires Respondents, their agents, and employees to attend a training that addresses the Act's prohibitions against discrimination on the basis of disability;
4. Awards such damages as will fully compensate Complainant for any and all injuries caused by Respondents' discriminatory conduct;
5. Assesses a civil penalty against Respondents for each violation of the Act that Respondents have committed, pursuant to 42 U.S.C. § 3612(g)(3) and 24 C.F.R. § 180.671; and
6. Awards such additional relief as may be appropriate under 42 U.S.C. § 3612(g)(3).

Respectfully submitted on this 27<sup>th</sup> day of September, 2012

*for*  ACTING REGIONAL COUNSEL  
Kimberly Y. Nash  
Regional Counsel

  
Pouya Bavafa  
Attorney

Office of the Regional Counsel  
Region IX  
U.S. Department of Housing and  
Urban Development  
600 Harrison Street, 3rd Floor  
San Francisco, CA 94107